

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper 66

Filed by: Trial Section Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SHERWOOD L. GORBACH,
BARRY R. GOLDIN, and HERMAN ADLERCREUTZ,

Junior Party,
(Patent 5,498,631),

v.

GRAHAM EDMUND KELLY,

Senior Party,
(Application 08/910,837).

Patent Interference 104,576

Before: McKELVEY, Senior Administrative Patent Judge, and
SCHAFFER and LEE, Administrative Patent Judges.

McKELVEY, Senior Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of a document styled GORBACH EVIDENCE ON
THE ISSUE OF PRIORITY (Paper 65), wherein it is indicated that
junior party Gorbach will not serve or file any evidence on the
issue of priority, it is

ORDERED that judgment on priority as to Count 3
(Paper 59, page 3), the sole count in the interference, is

awarded against junior party SHERWOOD L. GORBACH, BARRY R. GOLDIN, and HERMAN ADLERCREUTZ.

FURTHER ORDERED that junior party SHERWOOD L. GORBACH, BARRY R. GOLDIN, and HERMAN ADLERCREUTZ is not entitled to a patent containing claims 1-12 (corresponding to Count 3) of U.S. Patent 5,498,631.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 08/910,837 and U.S. Patent 5,498,631.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

<u>FRED E. McKELVEY, Senior</u>)	
Administrative Patent Judge)	
)	
)	
<u>RICHARD E. SCHAFER</u>)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
<u>JAMESON LEE</u>)	
Administrative Patent Judge)	

cc (via First Class Mail):

Counsel for Gorbach
(real party in interest,
Trustees of Tufts College,
licensee McNeil-PPC, Inc.):

Michael L. Goldman, Esq.
Ronald I. Eisenstein, Esq.
NIXON PEABODY LLP
101 Federal Street
Boston, MA 02110

Tel: 716-263-1304 (Goldman)
Tel: 617-345-6054 (Eisenstein)
Fax: 617-345-1300
E-mail: mgoldman@nixonpeabody.com
E-mail: reisenstein@nixonpeabody.com

Counsel for Kelly
(real party in interest
Novogen Research Pty Limited):

Jerry D. Voight, Esq.
Steven P. O'Connor, Esq.
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I Street, N.W.
Washington, D.C. 20005

Tel: 202-408-4000
Fax: 202-408-4400
E-mail: voightj@finnegan.com
E-mail: oconnors@finnegan.com